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5 **UNITED STATES DISTRICT COURT**

6 **DISTRICT OF NEVADA**

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8 CHRISTOPHER COOK,

9 Plaintiff,

10 vs.

11 LAS VEGAS METRO POLICE DEPARTMENT,

12 Defendant.

Case No. 2:22-cv-00535-GMN-VCF

13 **ORDER**

14 APPLICATION TO PROCEED *IN FORMA*
15 *PAUPERIS* (EFC NO. 2)

16 Pro se plaintiff Christopher Cook filed an application to proceed in forma pauperis (IFP). ECF
17 No. 1. I deny Cook's IFP application without prejudice.

18 **DISCUSSION**

19 Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action "without prepayment of fees or
20 security thereof" if the plaintiff submits a financial affidavit that demonstrates the plaintiff "is unable to
21 pay such fees or give security therefor." If the plaintiff is a "prisoner" as defined by 28 U.S.C. §
22 1915(h), as amended by the Prison Litigation Reform Act ("PLRA"), he remains obligated to pay the
23 entire fee in installments, regardless of whether his action is ultimately dismissed. See 28 U.S.C. §
24 1915(b)(1) & (2); *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002).

25 Under the PLRA, a prisoner seeking leave to proceed IFP must submit a "certified copy of the
trust fund account statement (or institutional equivalent) for the prisoner for the six-month period
immediately preceding the filing of the complaint." 28 U.S.C. § 1915(a)(2); *Andrews v. King*, 398 F.3d

1 1113, 1119 (9th Cir. 2005). From the certified trust account statement, the Court must assess an initial
2 payment of 20% of (a) the average monthly deposits in the account for the past six months, or (b) the
3 average monthly balance in the account for the past six months, whichever is greater, unless the prisoner
4 has no assets. See 28 U.S.C. § 1915(b)(1); 28 U.S.C. § 1915(b)(4). The institution having custody of the
5 prisoner must collect subsequent payments, assessed at 20% of the preceding month's income, in any
6 month in which the prisoner's account exceeds \$10, and forward those payments to the Court until the
7 entire filing fee is paid. See 28 U.S.C. § 1915(b)(2).

8 Plaintiff is currently incarcerated. ECF No. 2. Plaintiff filed an affidavit, but he did not submit a
9 signed certified copy of the trust fund account statement (or institutional equivalent), obtained from the
10 appropriate official at the detention center, for the 6-month period immediately preceding the filing of
11 his complaint. Plaintiff submitted a financial certificate, which he filled out himself, and stated that his
12 filing fee is \$0; however, no official signed the certificate (the signature portion is blank). ECF No. 2 at
13 4. Plaintiffs' application to proceed in forma pauperis is denied without prejudice. Since I deny
14 plaintiff's IFP application, I do not screen his complaint now.

15
16 ACCORDINGLY,

17 I ORDER that Cook's application to proceed in forma pauperis (ECF No. 2) is DENIED without
18 prejudice.

19 I FURTHER ORDER that Cook has until Monday, May 9, 2022, to file an updated IFP
20 application or pay the filing fee. Failure to timely comply with this Order may result in case closure or a
21 recommendation for dismissal with prejudice.

22 **NOTICE**

23 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
24 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
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1 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
2 may determine that an appeal has been waived due to the failure to file objections within the specified
3 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985).

4 This circuit has also held that (1) failure to file objections within the specified time and (2)
5 failure to properly address and brief the objectionable issues waives the right to appeal the District
6 Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d
7 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).
8 Pursuant to LR IA 3-1, the plaintiff must immediately file written notification with the court of any
9 change of address. The notification must include proof of service upon each opposing party's attorney,
10 or upon the opposing party if the party is unrepresented by counsel. Failure to comply with this rule may
11 result in dismissal of the action.

12 IT IS SO ORDERED.

13 DATED this 8th day of April 2022.



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15 CAM FERENBACH
16 UNITED STATES MAGISTRATE JUDGE
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